Office - Supreme Court, U.S.
FILED
DEC 31 1957
JOHN T. FEY, Clerk

No. 698

United States Court of Appeals for the Fourth Circuit

No. 7463

EVA ALLEN, ET AL.,
Appellants,

v.

COUNTY SCHOOL BOARD OF PRINCE EDWARD COUNTY, VIRGINIA, ET AL.,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION

APPENDIX TO BRIEF FOR APPELLEES

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Dated September 30, 1957.

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EXHIBIT 2 TO PETITION OF DEFENDANTS
(Filed July 18, 1955)

AFFIDAVIT OF THOMAS J. McILWAINE

STATE OF VIRGINIA
CITY OF RICHMOND, To-wit:

Thomas J. McIlwaine, being first duly sworn, deposes and says:

(1) I am Division Superintendent of Schools for Prince Edward County, Virginia, and have held that position for more than 35 years. I testified before this Court in the hearing of this cause on February 25, 1952, and thereafter, and my testimony appears in the printed record filed in the Supreme Court of the United States. My background and experience are outlined in that testimony and since testifying I have been continuously in the same position as Division Superintendent of Schools for Prince Edward County.

(2) When I testified before this Court on February 25, 1952, the Robert R. Moton High School for Negro children in Prince Edward County was in the course of construction. That school building was completed in the early fall of 1952 and was opened for the school session 1952-1953, and it has been continuously operated since that time. The school was built and equipped at a cost of approximately $900,000. In my opinion, there can be no question but that the building provides for Negro high school students in Prince Edward County facilities which are equal or superior to any facilities there available for white children; and this applies to building, equipment and curriculum. In addition, the facilities available for transportation of Negro high school students in Prince Edward County are now in my opinion

equal to or better than any such facilities provided for white children; and if the equality of facilities were still an issue in this proceeding, I believe the overall facilities for Negro high school students are better than those for white high school students.

(3) For the sessions 1952-1953 and 1953-1954 the high schools of Prince Edward County were operated as they had been operated for years prior to that time with the improvements in facilities and other matters referred to above. In the spring of 1954 I prepared the school budget and the budget was approved by the County School Board. Although there was at that time growing apprehension among the people of Prince Edward County and its governing bodies that the pendency of this proceeding presented a definite threat to the continuation of the public high schools of Prince Edward County, the Board of Supervisors nevertheless approved the school budget for the session 1954-1955, laid the necessary levies for local taxes and appropriated the necessary funds for the operation of the high schools for that year. This was done before the decision of the Supreme Court on May 17, 1954. Immediately after that decision, on the advice of the State Board of Education and of our counsel, it was determined that the high schools of the County should be operated for the session 1954-1955 just as they had been previously operated, and the Board of Supervisors took no further action in regard to the school budget.

(4) The school budget for the session 1954-1955 called for expenditures totaling $628,420. Of that amount it was estimated that $289,300 or 46% of the entire budget would be received from State and Federal funds and that $339,120

or 54% of the entire budget would be received from local taxes and other funds.

(5) The high schools were operated for the session 1954-1955 on the same basis on which they had been theretofore operated. The apprehension as to the future continued and grew. Nevertheless, as required by law, I prepared and presented to the County School Board in March, 1955, the budget proposed for the school year 1955-1956. That budget was approved by the School Board in March. It provided for total expenditures of $685,100 of which $308,600 or 45% was to come from State and Federal funds, and $376,500 or 55% was to come from local taxes and other local funds. The budget was approved by the County School Board and afterward was presented to the Board of Supervisors at a meeting in March, 1955. Another meeting between the Board of Supervisors and the County School Board was held on March 10, 1955, and at that meeting the Board of Supervisors gave tentative approval to the school budget, subject to the public hearing on the county budget required by law, which was to be held in April, 1955.

(6) On April 10, 1955, the public hearing was held on the County budget. That hearing was attended by about 50 people, citizens of every section of the County. At the hearing those citizens made it clear that they were firm in opposition to schools conducted upon other than a racially segregated basis, and they requested the Board of Supervisors to postpone final action on the tax levy and school appropriation until the Supreme Court had rendered its decision in this case. Accordingly, the Board of Supervisors adopted a resolution postponing action on the tax levy and school appropriation.

(7) During the period following April 10, 1955, there

was growing unrest among the citizens of Prince Edward County as to the future of the public schools of the County, with many expressions of opinion that racially integrated schools should not be attempted. During this period the School Board nevertheless made tentative appointments of teachers for the session 1955-1956, subject to the availability of funds. No final appointments could be made until funds became available. The School Board proceeded also with plans to operate the school during the session 1955-1956 in all respects as they had been operated in prior years.

(8) On May 31, 1955, the decision of the Supreme Court was announced and it was immediately communicated to County officials. The Board of Supervisors had previously scheduled a meeting for the evening of May 31, 1955, to consider the school budget, the levy of taxes and the appropriation of funds for school purposes, that being the last day on which the Board of Supervisors could legally levy taxes for the year 1956. The meeting was attended by several hundred people from all sections of the County. At the meeting, the Chairman of the County School Board stated to the Supervisors that on the advice of counsel he recommended that the necessary tax be levied for school purposes and that all necessary school funds be appropriated with the understanding that the schools would be operated during the session 1955-1956 on a racially segregated basis in the same manner in which they had previously been operated. The statement by the Chairman of the School Board precipitated statements by a number of citizens that they opposed any appropriation of school funds at that time because they wanted it to be made certain and positive that schools were to be operated on a racially segregated basis before any appropriations were made. After a general public discussion of more than an hour the Board of Supervisors ordered that

the school budget be not approved, and that the sum of $150,000 be appropriated for school purposes for the session 1955-1956, in lieu of the sum of $327,500 requested in the budget. An excerpt from the minutes of the meeting of the Board of Supervisors on May 31, 1955, is appended hereto as Exhibit A.

(9) The sum of $150,000 appropriated by the Board of Supervisors for the session 1955-1956 is inadequate for the operation of the schools of the County. Approximately $50,000 must be applied to debt service. Maintenance of buildings and grounds and other fixed charges will require a substantial additional sum. State and Federal funds for operation of the schools will not be available in the required amount unless County funds are appropriated. Accordingly, there is no adequate sum of money available for the payment of salaries to teachers and without teachers the schools cannot be operated.

(10) Early in June, 1955, after public notice there was held in Jarman Hall at Longwood College in the Town of Farmville a public meeting of white citizens of the County interested in the public school system. That meeting was attended by approximately 1,500 persons. Of those, a large majority were parents or guardians of children in the public schools. It was the unanimous opinion of all those who expressed themselves at the meeting that integrated schools were an impossibility for Prince Edward County and that the only way in which schools could be operated was on a racially segregated basis. The suggestion was made that it be recommended to the Board of Supervisors that operating funds for school purposes be released to the School Board from time to time during the session 1955-1956, so long as the schools were operated on a racially segregated basis. A

resolution to that effect was, however, defeated overwhelmingly, it appearing that the resolution received the support of less than 5% of the persons present. A further resolution was then passed that a fund be raised to guarantee their salaries for the session 1955-1956 to the white teachers of Prince Edward County schools with the understanding that if racially segregated schools could be operated during that session, and if the Board of Supervisors appropriated funds for the salaries of teachers and for the operation of the schools during that session, the funds so raised would not be used. The resolution was overwhelmingly adopted and a committee was appointed to proceed with the raising of the fund and the organization of a corporation to hold and disburse the fund. After adoption of the resolution subscription blanks prepared in advance were distributed among those present, and subscriptions were received at the meeting approximating a total of $50,000. Additional subscriptions in substantial amounts have since been received. It was estimated at the meeting that $212,000 would be required. Subscriptions to the fund now total well over $175,000.

(11) During the month of June, 1955, and during the first two weeks of July, 1955, the School Board continued as usual its preparation for the operation of high schools in the County for the session 1955-1956 with the exception of issuing contracts to teachers. Such preparation has meant routine maintenance and repairs which will be required for operation of schools during the session 1955-1956. The School Board is ready and prepared to operate the high schools in Prince Edward County for the session 1955-1956 if funds for their operation are available, and if schools on a racially segregated basis can be operated during that session without violation of an order of this Court. All pupils for the high schools have been assigned to the schools, to their subjects and to their home rooms.

(12) I have examined the list of plaintiffs in this case who are alleged to have been at the time students in the Prince Edward County schools. Each of them has either been graduated from high school or has left the school voluntarily, and none of them will be a student in the Prince Edward County schools if the schools are operated during the session 1955-1956.

(13) The high schools of Prince Edward County can be operated only within the framework of the statutes of Virginia relating to the operation of schools. The decision of the Supreme Court of May 31, 1955, will obviously require substantial modification in those laws. The Prince Edward County School Board is not authorized and empowered to make substantial changes in the method of operation of the high schools of the County until the policy of the State has been made known. Accordingly, the high schools of Prince Edward County can be operated during the session 1955-1956 only as racially segregated schools. If they cannot be operated in that way they cannot be operated at all, and they will be closed during that session. In that event, the pupils who would normally attend school during that session will lose an entire year of their education, and many of them who would otherwise continue their studies will not return to the schools if they are reopened at a later date, since they will then have obtained jobs or otherwise divorced themselves from the normal course of education.

(14) In conclusion, I would not like to underestimate in my statement to the Court the difficulties that are being faced in Prince Edward County as a result of the school decision by the Supreme Court. Racial feeling is running high. Relationships between the two races, which had been amicable for decades, have been strained to the point of open

hostility. The people of Prince Edward County recognize the desirability of the continuance of their public school system for the good of their own children and for the economic progress of their community, but it has become manifest that they are determined to forego the benefit of a public school system if that benefit can be achieved only through racially integrated schools during the session 1955-1956.

(15) Insofar as the session 1955-1956 is concerned, the State of Virginia has not yet had an opportunity to reorganize its school laws in the light of the decisions of the Supreme Court, and the question now facing this Court as to the high schools in Prince Edward County is not whether or not they are to be operated on a racially integrated basis. The only question that this Court can decide now is whether the high schools in Prince Edward County shall be operated on a racially segregated basis during the session 1955-1956 until the State of Virginia has had an opportunity to reorganize its school laws or whether the high schools shall be closed.

EXHIBIT A

Excerpt from the Minutes of a Meeting of the Board of Supervisors Held on May 31, 1955:

"At a meeting of the Board of Supervisors of Prince Edward County held pursuant to order of adjournment entered May 5, 1955, this 31st day of May 1955, at 8:00, P.M., the time designated by the Chairman of the Board, and of which written notice has been communicated to the several members of the Board, there were present:

Edward A. Carter, Chairman
W. W. Vaughan
Chas. W. Gates
T. D. Dillon
John G. Bruce
Hugh M. Jenkins

Budget for 1955-1956:

This being the day set for the further consideration and adoption of the Budget of estimated receipts and expenditures for General County, Public School and Welfare purposes for fiscal year beginning July 1, 1955; and a large group of citizens, said to be composed of residents and taxpayers from each Magisterial District of this County, appeared at this time and urged the Board not to fix our County levy for School Purposes for the year 1955-1956 session;

And on motion of Mr. Bruce, seconded by Mr. Gates and carried unanimously, it is ordered that the School Budget as heretofore presented by Superintendent of Schools T. J. McIlwaine for the year 1955-1956 at the March meeting be not approved, and that the Board of Supervisors refuses to make such cash appropriation as is recommended and requested by Superintendent of Schools T. J. McIlwaine and the School Board, and that further only the sum of $150,000 be appropriated for school purposes for the session 1955-1956 instead of the sum of $327,500 requested by said Superintendent."

EXHIBIT 3 TO PETITION OF DEFENDANTS
(Filed July 18, 1955)

AFFIDAVIT OF B. CALVIN BASS

STATE OF VIRGINIA
CITY OF RICHMOND, To-wit:

B. Calvin Bass, being duly sworn, deposes and says:

(1) I am Chairman of the County School Board of Prince Edward County, Virginia, and have held that position since July 1, 1954. I have been a member of the School Board since March, 1951.

(2) The office of Chairman of the School Board is filled by annual elections in July of each year. I have continued as Chairman of the School Board past the July meeting of the Board, but at the time I accepted election as Chairman I stated that I would serve for only one year. Because of my health and on the advice of my physician I do not propose to continue as Chairman of the School Board after the conclusion of this hearing, and I propose to resign as Chairman at the next meeting of the Board, although I plan to retain my membership on the Board.

(3) I was born in Prince Edward County in 1910. I attended Maryville College in Tennessee and was graduated with the degree of Bachelor of Arts in 1931. I taught in the public schools in Tennessee from 1931 to 1942, was principal of a school for the last three years of that period, and was acting assistant superintendent during the last year. During that period I was awarded the degree of master of arts from the University of Tennessee. In 1942 I returned to Prince Edward County and taught in the Prince Edward County schools during the session 1942-1943. During World War II I was an assistant professor of physics at

Hampden-Sydney College, and since the War I have assisted at Hampden-Sydney from time to time by teaching courses in physics and chemistry. My principal occupation is that of a farmer and dairyman.

(4) I have reviewed the affidavit of Thomas J. McIlwaine which will be filed in this proceeding along with my affidavit. I am familiar with most of the matters stated in the affidavit of Mr. McIlwaine and I am in full agreement with his statements of fact and also with his expressions of opinion. Any further recitation of the facts by me in this affidavit would be simply duplication of his statements.

(5) It is my firm conviction that the vast majority of the white citizens of Prince Edward County are determined at this time that high schools shall not be operated on a racially integrated basis during the session 1955-1956. It is further my opinion that the views of the majority of the white citizens are shared by the entire Board of Supervisors of the County. In my opinion, the Board of Supervisors refused to appropriate funds for operation of the schools during the session 1955-1956 because they apprehended that this Court might in some way order the operation of integrated schools during the session 1955-1956, and apprehended further that a violation of that order might subject the superintendent of schools and the County School Board to substantial penalties in the form of fines or imprisonment. If the Court will authorize the operation of the schools in Prince Edward County during the session 1955-1956 in the way they have been operated heretofore, while the State of Virginia is developing a plan of adjustment for the operation of schools throughout the State, I believe that the schools in the County can be operated during the session 1955-1956. On the other hand, if the Court should deny

to the School Board the right to operate racially segregated schools during the session 1955-1956, it is my opinion that the public schools will not be operated in Prince Edward County during that session.

EXHIBIT A TO ANSWER TO MOTION FOR FURTHER RELIEF

(Filed June 29, 1956)

AFFIDAVIT OF LESTER E. ANDREWS

STATE OF VIRGINIA
CITY OF RICHMOND, To-wit:

Lester E. Andrews, being first duly sworn, deposes and says:

(1) I was born in Chesterfield County, Virginia, in the year 1915 and have lived in Virginia all my life. Since the year 1928 I have lived in Farmville in Prince Edward County, Virginia, and I have a wide acquaintance within that County and am thoroughly familiar with public sentiment therein. I am Vice-President of Farmville Manufacturing Company, Incorporated, which conducts a general mercantile and building supply business, and my corporation does the largest business of that kind in Prince Edward County and the adjacent area. I am also a director of Peoples National Bank in Farmville.

Since the year 1954 I have been a member of the School Board of Prince Edward County and I am now Chairman of the School Board, succeeding Mr. B. C. Bass who was Chairman of the School Board when this matter was last before the Court on July 18, 1955. I am the father of two boys who attend one of the Farmville elementary schools.

(2) Personally, officially and as a citizen I am vitally interested in the continuance and maintenance of an efficient and constructive school system in Prince Edward County. I am familiar with this court proceeding and I have reviewed especially the petition of the defendants and accompanying affidavits which were filed in this proceeding on July 18, 1955. I am generally familiar with the facts set forth in that petition and in the affidavits and the facts are correctly alleged in the petition and correctly set forth in the affidavits.

(3) I realize, of course, that the Court will now enter such an order as the Court deems necessary to serve the best interests of all the children of Prince Edward County, and in order to serve those interests and prevent a discontinuance of the public schools in Prince Edward County for an indefinite period, the schools in the County must be operated during the session 1956-57 as they have heretofore been operated; otherwise the schools will be closed and all the children of the County will be deprived of an opportunity for a public school education for an indefinite period.

(4) The School Board has submitted its budget to the Board of Supervisors for the session 1956-57, but the Board of Supervisors has declined to approve and adopt the budget in view of the threat of integration and the present undetermined policy of the State of Virginia regarding its public school system. The Board of Supervisors, however, has by recorded resolution signified its intention to appropriate funds for the operation of the schools on a month-to-month basis, thereby retaining control of funds for the operation of the public schools for a normal term. This action was in response to the overwhelming sentiment of the people of Prince Edward County who will not counte-

nance appropriation of funds for integrated schools. All local funds for public school purposes must be provided by the Board of Supervisors.

(5) The public schools of Prince Edward County are maintained and operated by the Department of Education of the State of Virginia through the County School Board as its administrative agency. The School Board is subject to the direction and control of the State Board of Education and can operate the schools of Prince Edward County only in conformity with the policy and subject to the rules and regulations of the State Board of Education. The public schools of Prince Edward County are now being so operated and cannot be operated otherwise until the policy of the State for its public school system is fixed and determined.

(6) The Governor of Virginia has made public announcement that he will call a special session of the General Assembly not later than September 6, 1956, to enact appropriate legislation in view of the Supreme Court decisions and the recent amendment to the Constitution of Virginia. Until the public school policy of Virginia is fixed and determined the School Board of Prince Edward County can operate the public schools in the County only as they have heretofore been operated, and if any order be entered now to operate the schools otherwise the schools will be closed for an indefinite period, thus denying educational opportunities and benefits to all of the children of the County.

(7) My statement that the schools of the County will be closed if the local authorities be ordered to operate them in the session 1956-57 otherwise than as they have heretofore been operated is based upon my knowledge of the overwhelming public sentiment of Prince Edward County. More than 4,100 citizens of Prince Edward County have heretofore filed a declaration stating that in the event of an order

directing operation of the public schools otherwise than as they have heretofore been operated, the public schools should be closed indefinitely, and those signing the declaration have called upon the Board of Supervisors to withhold public school revenues in order to carry their wishes into effect. The number of those signing the declaration exceeds by more than one thousand the highest number of votes ever cast in any election in Prince Edward County.

(8) The tension described in the affidavits which were filed in the proceeding on July 18, 1955, has increased since that date, and in my opinion any attempt to force integrated public schools upon Prince Edward County would result in disorder and chaos. I am convinced that the schools of Prince Edward County can be operated for the session 1956-57 only on that basis upon which they have heretofore been operated.

(9) Plans for operating public high schools in Prince Edward County for the session 1956-57 have been completed. Educational facilities, opportunities and offerings are such as to furnish no valid claim of discrimination against the members of any race. Facilities provided for Negro students under these plans are superior to the facilities provided for the white students, and in my opinion such plans are in accordance with the views of the vast majority of the Negro as well as the white citizens of Prince Edward County.

(10) In addition to the foregoing, I have reviewed the affidavit of Mr. T. J. McIlwaine which will be filed in this proceeding along with my affidavit. I am familiar with the matters stated in the affidavit of Mr. McIlwaine and I am in full agreement with his statement of facts and also with his expressions of opinion.

EXHIBIT B TO ANSWER TO MOTION FOR FURTHER RELIEF

(Filed June 29, 1956)

AFFIDAVIT OF B. CALVIN BASS

STATE OF VIRGINIA
CITY OF RICHMOND, To-wit:

B. Calvin Bass, being duly sworn, deposes and says:

(1) I am Vice Chairman of the County School Board of Prince Edward County, Virginia, and have held that position since August, 1955. I have been a member of the School Board since March, 1951. On July 18, 1955, the date of the last hearing of this proceeding before this Court I was Chairman of the County School Board of Prince Edward County, Virginia, and filed an affidavit at the time of such hearing.

(2) I have reviewed the affidavit filed by me on July 18, 1955, and believe the statements and conclusions expressed therein to be true as of this date.

(3) I have also reviewed the affidavit of T. J. McIlwaine and Lester E. Andrews which will be filed in this proceeding along with my affidavit. I am familiar with most of the matters stated in those affidavits and am in full agreement with the statements of fact and expressions of opinion contained therein. Further recitation of such facts by me would simply duplicate the statements of Mr. McIlwaine and Mr. Andrews.

EXHIBIT C TO ANSWER TO MOTION FOR FURTHER RELIEF

(Filed June 29, 1956)

AFFFIDAVIT OF JAMES T. CLARK

James T. Clark, being first duly sworn, deposes and says:

(1) I am the Sheriff of Prince Edward County, Virginia, and have been Sheriff since 1944. Prior to my election as Sheriff I was the Deputy Sheriff for eight years. I have lived in Prince Edward County all my life and in the course of my duties I am required to know many of the residents of that County.

(2) Since the schools of Prince Edward County have been in litigation in regard to racial segregation, I have noticed an increase in tension between the races in the County, and it has particularly increased during the past twelve months. Never in my experience in Prince Edward County has the feeling of tension between the races been as strong as it is in the County today.

(3) I have two Deputies who work full time for me and several Deputies who are employed on a part time basis. The Town of Farmville has a police force consisting of seven officers. There are three State policemen living in the County. There are no other law enforcement officers in the County. The County has an area of 356 square miles and a population of approximately 15,000. Of these about 50% are white and 50% are Negro. There is a National Guard Armory in the Town of Farmville.

(4) I do not propose to state in detail my views as to the law enforcement situation that would exist in Prince Edward County in the event that the public schools should be integrated by court decree or otherwise since I believe that integration of this kind during the year 1956-57 would be

impossible. In the event of such integration the law enforcement problems would be of such a nature that it would be impossible, in my belief, for me and for the other law enforcement officers in the County to preserve order.

(5) In the event that the public schools in Prince Edward County are closed for the session 1956-57 I believe that problems of law enforcement in Prince Edward County would be very substantially increased. I know of arrangements that have been planned to keep white children in private schools, at least for most of the school session, but I know of no similar arrangements for Negro children.

(6) If Negro school children, particularly those of high school age, do not go to school and are left to their own devices for the full year, it is my belief that the number of delinquent children will be tremendously increased, and that offenses against person and property will grow to a very great extent. It has been my experience that children of this age who are not actively employed often get into trouble and I foresee that the number of crimes in Prince Edward County will rise very sharply. This would be all the more true in the present atmosphere of tension between the races in the County.

EXHIBIT D TO ANSWER TO MOTION FOR FURTHER RELIEF

(Filed June 29, 1956)

AFFIDAVIT OF CARTER O. LOWANCE

STATE OF VIRGINIA
CITY OF RICHMOND, To-wit:

Carter O. Lowance, being duly sworn, deposes and says:

I am Executive Secretary to Thos. B. Stanley, Governor of Virginia. Attached hereto and marked Exhibit 1 is a

true and correct copy of a statement issued by the Governor of Virginia over his signature on June 6, 1956.

EXHIBIT 1

Since the decision of the Supreme Court of the United States in the school segregation cases, on May 17, 1954, Virginia has continued the operation of its public schools on the same basis as before. However, the decision and subsequent decree created problems of great importance to the future operation of the schools and of concern to every citizen of Virginia.

To retrace the history of events since May, 1954, in August of that year I appointed a Commission on Public Education, composed of 32 members of the General Assembly, to study the effects of the decision on Virginia and to bring in a report on its findings and recommendations. The Commission's report was submitted to me on November 11, 1955. On November 14, 1955, I issued a call for an extra session of the General Assembly, which convened on November 30 and enacted legislation submitting to the people the question of calling a constitutional convention to amend Section 141 so as to permit the appropriation of public funds for educational purposes in nonsectarian private schools and institutions, in addition to those owned or exclusively controlled by the state or political subdivisions. The voters of Virginia on January 9, 1956, authorized the constitutional convention, which met and amended Section 141 during its deliberations March 5-7, 1956 This action was in accordance with the recommendations of the Commission on Public Education.

The date of adjournment of the regular session of the General Assembly was March 10, 1956, and obviously it was impracticable, if not impossible, to have adequate con-

sideration of other recommendations of the Commission on Public Education in the three days remaining after the conclusion of the Constitutional Convention. It also should be recalled that the Commission had strongly recommended that its other recommendations be deferred until after action of the constitutional convention, inasmuch as the recommendations were so interrelated it would be impractical to consider them until the constitutional question had been decided.

Since adjournment of the regular session, I have had many inquiries concerning further action to deal with these school problems, and have had recommendations for and against an extra session of the Assembly. In the light of developments and the desire of many localities for State guidance in formulating future policy, I requested the Chairman of the Commission on Public Education to call a meeting of the Executive Committee of the Commission. This was done and I met with the Committee on May 17 and asked that the Committee, and the full Commission, if the Committee saw fit, consider events since the Commission report of November 1955, together with any new information or suggestions that merited study since its recommendations were formulated. The Committee met again on May 28 and then called a meeting of the full membership of the Commission for Monday, June 4. At this meeting, the Commission recommended "that a special session of the General Assembly be called to consider the report heretofore made by the Commission on Public Education and such other matters in connection therewith as may be presented".

I am convinced that the General Assembly should be convened to consider the recommendations of the Commission on Public Education, which I am confident can be restudied and completed within the reasonably near future, and any other proposals dealing with the public schools which mem-

bers of the General Assembly or the Governor deem deserving of consideration.

Accordingly, it is my purpose to convene the General Assembly in extra session within the next ninety days for the reasons just stated. This will afford the elected representatives of the people the opportunity to consider all recommendations which may bear promise of aiding in the solution of the increasingly difficult problems arising from the Supreme Court decision.

Thos. B. Stanley
Governor

June 6, 1956

EXHIBIT E TO ANSWER TO MOTION FOR FURTHER RELIEF

(Filed June 29, 1956)

AFFIDAVIT OF THOMAS J. McILWAINE

STATE OF VIRGINIA
CITY OF RICHMOND, To-wit:

Thomas J. McIlwaine, being first duly sworn, deposes and says:

(1) I am Division Superintendent of Schools for Prince Edward County, Virginia, and have held that position for more than 35 years. I testified before this Court in the hearing of this cause on February 25, 1952, and my affidavit was presented to the Court on July 18, 1955. My background and experience are outlined in that testimony and affidavit and I have remained continuously in the same position as Division Superintendent of Schools for Prince Edward County.

(2) For the session 1955-1956 the high schools of Prince Edward County were operated as they had been operated for years prior to that time with one significant exception. The Board of Supervisors on May 31, 1955, refused to approve the budget of the School Board as presented to it with the approval of the School Board. Instead, the Board of Supervisors appropriated at each of their monthly meetings during the school term only the amount necessary to operate the schools for the succeeding month. The schools were, nevertheless, operated throughout the session on a highly satisfactory basis, although certain expenses were curtailed throughout the school system.

(3) As required by law, I prepared and presented to the County School Board in March, 1956, the budget proposed for the school year 1956-1957. That budget was approved by the School Board in March. It provided for total expenditures of $715,227.65 of which $328,785.00 or 46% were to come from State and Federal funds, and $386,442.65 or 54% were to come from local taxes and other local funds. The budget was approved by the County School Board and afterward was presented to the Board of Supervisors at a meeting on April 1, 1956. The budget was advertised in accordance with law and a public hearing was held on May ..., 1956. The Board of Supervisors then took no action on the school budget until May 29, 1956; at that time they rejected the budget and adopted a resolution whereby appropriations would be made on a month-to-month basis for the session 1956-57.

(4) Teachers have been tentatively appointed for the 1956-57 session. Contracts have not yet been issued but are to be issued shortly, to include a termination provision on

one month's notice. Although all teaching positions have not been filled, the number of existing vacancies is not out of line with our past experience.

(5) With one exception all high school students of both races who are expected to enter high school next session have been registered and assigned with parental approval to the schools that they will attend.

(6) In summary, the schools of Prince Edward County are in full readiness for operation during the 1956-57 session in the same manner in which they were operated in 1955-56, and there is every reason to believe that they can be operated successfully on that basis.

(7) The schools of Prince Edward County can be operated only within the framework of the statutes of Virginia relating to the operation of schools. The decision of the Supreme Court of May 31, 1955, will obviously require substantial modification in those laws. The Prince Edward County School Board is not authorized and empowered to make substantial changes in the method of operation of the schools of the County until the policy of the State has been made known. No changes in school statutes relative to Prince Edward County have yet become effective, although such changes are generally forecast in the light of the Governor's statements as to a forthcoming special session of the General Assembly. Accordingly, the high schools of Prince Edward County were operated during the session 1955-1956 as racially segregated schools and can be operated during the approaching session only in the same manner. If they cannot be operated in that way they cannot be operated at all, and they will be closed during that session because funds to operate the schools will not be appropriated

by the Board of Supervisors, and without such funds operation is impossible. The effect of closing the schools would be disasfrous. The pupils who would normally attend school would lose an entire year or more of their education, and many of them who would otherwise continue their studies would not return to the schools if they are reopened at a later date, since they will then have obtained jobs or otherwise separated themselves from the normal course of education.

(8) In conclusion, I would like to state again that racial feeling is running high in Prince Edward County. Relationships between the two races, which had been amicable for decades, have continued to be strained. The people of Prince Edward County have made it clear that they are determined to forego the benefit of a public school system if that benefit can be achieved only through racially integrated schools required as a result of court decree during the session 1956-1957.

(9) The State of Virginia has still not had an adequate opportunity to reorganize its school laws in the light of the decisions of the Supreme Court. Until new laws are enacted, changes in the Prince Edward School system are impossible. The question still facing this Court as to the schools in Prince Edward County is not whether or not they are to be operated on a racially integrated basis. The only question that this Court can decide now, as in July, 1955, is whether the schools in Prince Edward County shall be operated on a racially segregated basis during the next session until the State of Virginia has had an opportunity to reorganize its school laws or whether the high schools shall be closed.

EXHIBIT F TO ANSWER TO MOTION FOR FURTHER RELIEF

(Filed June 29, 1956)

AFFIDAVIT OF VERNON C. WOMACK

STATE OF VIRGINIA
CITY OF RICHMOND, To-wit:

Vernon C. Womack, being first duly sworn, deposes and says:

(1) I am the Commissioner of the Revenue of Prince Edward County, Virginia, and have served continuously in that position since my election to that office beginning January 1, 1940. Prior to that time I lived in the Town of Farmville for thirteen years. I was born in Prince Edward County and have lived there all my life.

(2) In my position as Commissioner of the Revenue I necessarily must talk to, deal with and come in contact with people of all classes in Prince Edward County, white and Negro. In fact it is my belief that I know personally considerably more than half the people in the County. The Negro people of Prince Edward County, consisting of about 50% of the population, pay only 14% of the real estate and personal property taxes payable to the County, whereas the 50% of white people pay 86% of these taxes. In addition, in the course of my official duties it is necessary for me to work closely with the Board of Supervisors of the County and I know the members of the Board personally and am well acquainted with their views on most matters.

(3) I have read the affidavit of Lester E. Andrews which is to be filed together with my affidavit. I am familiar with the feeling of the people of Prince Edward County and with

many of the events referred to in his affidavit, and, in my opinion, his affidavit is a fair statement of these matters. In addition I have read the affidavit of Sheriff James T. Clark which is to be filed together with my affidavit, and I am in full accord with his statement of facts and the feeling of the people of Prince Edward County.

(4) Tension between the races in Prince Edward County has grown materially, particularly during the last twelve months, to the point where it is stronger now than I have ever seen it in my lifetime. This tension has resulted in my opinion entirely from the actions that have been taken by the parties to this case and from the decisions of the Supreme Court of the United States.

(5) I am convinced that unless the public schools of Prince Edward County can be operated for the session 1956-57 in the same manner in which they have been operated in the past the schools will be closed. The people of Prince Edward County and the Board of Supervisors of the County, expressing the wishes of the people, have determined that County funds will not be appropriated to run racially integrated schools. This is the almost unanimous wish of the white residents of the County who pay 86% of County taxes. As a result unless the schools can be run on a racially segregated basis as they have been run in the past they will be closed. It does not seem to me that there is any substantial question at all that this result is true.

(6) The adverse effect of closing the schools on the children is apparent from the point of view of financing and education. In addition, I concur with Sheriff Clark in his opinion that closing the schools will result in a great increase in juvenile delinquency in the County, particularly among Negro youth for whom no private schools would be available.